

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SECURITIES & EXCHANGE  
COMMISSION,

Applicant,

-v.-

JAMES DAVID O'BRIEN,

Respondent.

19 Misc. 0468 (KPF)

**ORDER**

KATHERINE POLK FAILLA, District Judge:

On January 11, 2021, the Second Circuit issued a decision affirming the Court's Order of December 27, 2019 in this matter. *See Sec. & Exch. Comm'n v. O'Brien*, No. 20-37, 2021 WL 79158 (2d Cir. Jan. 11, 2021) (summary order). On February 12, 2021, Respondent moved the Court to extend the stay of the Court's Order of December 27, 2019, pending the decision of the United States Supreme Court on Respondent's forthcoming petition for a writ of certiorari. (Dkt. #34-36). The Applicant filed its opposition brief on February 26, 2021 (Dkt. #37), and Respondent filed its reply brief on March 5, 2021 (Dkt. #38).

On March 3, 2021, Respondent separately moved the Second Circuit to stay the issuance of its mandate pending the resolution of his forthcoming certiorari petition. (No. 20-37, Dkt. #97). Having carefully considered the parties' submissions, the Court finds that the question at issue is whether Respondent has met the standard for obtaining a stay of the Second Circuit's mandate. That question is now before the Second Circuit. While Respondent's motion to stay the issuance of the mandate remains pending, it is premature

for the Court to consider an extension of the stay of its December 27, 2019 Order. The Court accordingly DENIES Respondent's motion without prejudice to its renewal following the issuance of the Second Circuit's mandate.

SO ORDERED.

Dated: March 10, 2021  
New York, New York

A handwritten signature in blue ink, reading "Katherine Polk Faila".

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KATHERINE POLK FAILLA  
United States District Judge